

PAUL J. FISHMAN
United States Attorney
PAMELA R. PERRON
Assistant U.S. Attorney
970 Broad Street
Newark, New Jersey 07102
(973) 645-2836

ELECTRONICALLY FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,)	
)	Hon.
Petitioner,)	
)	
v.)	Civil Action No.
)	
ANGELO MALLOZZI,)	
)	
Respondent.)	

PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS

The United States of America, on behalf of its agency, the Internal Revenue Service, and by its attorney, Paul J. Fishman, United States Attorney for the District of New Jersey, avers to this Court as follows:

1. This is a proceeding brought pursuant to the provisions of sections 7402(b) and 7604(a) of Title 26, U.S.C, to judicially enforce an Internal Revenue Service summons.

2. Marion Kirschner is a Revenue Officer of the Internal Revenue Service, employed in Small Business/Self-Employed Compliance Area 1, and is authorized to issue an Internal Revenue Service summons pursuant to the authority contained in Section 7602 of Title 26 U.S.C., and Treasury Regulations § 301.7602-1, 26 C.F.R. § 301.7602-1.

3. The respondent, Angelo Mallozzi, resides or is found at 70 B. Forest

Drive, Springfield, NJ 07081, within the jurisdiction of this court.

4. Revenue Officer Marion Kirschner is conducting an investigation into the tax liability of Angelo Mallozzi for the years: 2009, 2010, 2011, and 2012, as is set forth in the Declaration of Revenue Officer Marion Kirschner attached hereto as Exhibit B.

5. The respondent, Angelo Mallozzi, is in possession and control of testimony and other documents concerning the above-described investigation.

6. On August 28, 2013, an Internal Revenue Service summons was issued by Revenue Officer Marion Kirschner directing the respondent, Angelo Mallozzi, to appear before Revenue Officer Marion Kirschner on September 9, 2013, at 3:00PM at 200 Sheffield Street, Diamondhead Building, Mountainside, NJ 07092, to testify and to produce books, records, and other data described in the summons. An attested copy of the summons was left at the last and usual place of abode of the respondent, Angelo Mallozzi, by Revenue Officer Marion Kirschner, on August 28, 2013. The summons is attached and incorporated as Exhibit A.

7. On September 9, 2013, the respondent, Angelo Mallozzi, did not appear in response to the summons. The respondent's refusal to comply with the summons continues to date as is set forth in the declaration of Revenue Officer Marion Kirschner attached as Exhibit B.

8. On September 26, 2013, the Department of Treasury, Internal Revenue Service, Office of Division Counsel sent Angelo Mallozzi a last chance letter by certified mail. The letter instructed him to appear on October 23,

2013 to meet with Revenue Officer Kirschner. The last chance letter is attached as Exhibit C.

9. On October 22, 2013 the respondent's attorney, Martin Margolis, Esq. called and requested an extension/postponement of the October 22nd meeting because, he explained, the returns were being prepared. The parties agreed to postpone the meeting and that Angelo Mallozzi would appear on November 8, 2013. See Exhibit B, Kirshner Declaration ¶ 6.

10. On November 6, 2013, a different attorney, Seth Dobbs, Esq., called to extend/postpone the meeting to November 25, 2013. On November 25, 2013, Dobbs called requesting yet another extension of time. Revenue Officer Kirschner refused. Mallozzi appeared on that date with attorney Dobbs but failed to produce any of the tax returns described in the Summons. See Exhibit B, Kirshner Declaration ¶ 6.

11. The parties agreed that Mallozzi and his attorney would contact Revenue Officer Kirschner on December 3, 2103 with a filing date. To date, they have failed to do so. See Exhibit B, Kirshner Declaration ¶ 6.

12. The books, papers, records, or other data sought by the summons are not already in possession of the Internal Revenue Service.

13. All administrative steps required by the Internal Revenue Code for the issuance of a summons have been taken.

14. It is necessary to obtain the testimony and examine the books, papers, records, or other data sought by the summons in order to properly investigate the Federal tax liability of Angelo Mallozzi for the following years:

2009, 2010, 2011, and 2012, as is evidenced by the declaration of Marion Kirschner attached and incorporated as part of this petition.

WHEREFORE, the petitioner respectfully prays:

1. That this Court enter an order directing the respondent, Angelo Mallozzi, to show cause, if any, why respondent should not comply with and obey the aforementioned summons and each and every requirement thereof.
2. That the Court enter an order directing the respondent, Angelo Mallozzi, to obey the aforementioned summons and each and every requirement thereof by ordering the attendance, testimony, and production of the books, papers, records, or other data as is required and called for by the terms of the summons before Revenue Officer Marion Kirschner or any other proper officer or employee of the Internal Revenue Service at such time and place as may be fixed by Revenue Officer Marion Kirschner, or any other proper officer or employee of the Internal Revenue Service.
3. That the United States recover its costs in maintaining this action.
4. That the Court grant such other and further relief as is just and proper.

Dated: July 29, 2014
Newark, New Jersey

PAUL J. FISHMAN
United States Attorney

By: 
PAMELA R. PERRON
Assistant United States Attorney



Summons

In the matter of ANGELO MALLOZZI, 70 B FOREST DR, SPRINGFIELD, NJ 07081

Internal Revenue Service (Division): Small Business / Self Employed

Industry/Area (name or number): Small Business / Self Employed - Area 22

Periods: December 31, 2009, December 31, 2010, December 31, 2011 and December 31, 2012

The Commissioner of Internal Revenue

To: ANGELO MALLOZZI

At: 70 B FOREST DR, SPRINGFIELD, NJ 07081

You are hereby summoned and required to appear before MS. KIRSCHNER, an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

All documents and records in your possession or control reflecting the receipt of taxable income by you for the year(s) December 31, 2009, December 31, 2010, December 31, 2011 and December 31, 2012, including but not limited to: statement of wages for the year(s) December 31, 2009, December 31, 2010, December 31, 2011 and December 31, 2012; statements regarding interest or dividend income for the year(s) December 31, 2009, December 31, 2010, December 31, 2011 and December 31, 2012; employee earnings statements for the year(s) December 31, 2009, December 31, 2010, December 31, 2011 and December 31, 2012; records of deposits to bank accounts during the year(s) December 31, 2009, December 31, 2010, December 31, 2011 and December 31, 2012; and any and all other books, records, documents, and receipts regarding wages, salaries, tips, fees, commissions, and any other compensation for services (including gains from dealings in property, interest, rental, royalty and dividend income, alimony, annuities, income life insurance policies and endowment contracts, pensions, income from the discharge of indebtedness, distributive shares of partnership gross income, and income from an estate or trust), so that Federal Income Tax liability for the year(s) December 31, 2009, December 31, 2010, December 31, 2011 and December 31, 2012 (for which year(s) no return have been made) may be determined.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

200 SHEFFIELD STREET, DIAMONDHEAD BUILDING, MOUNTAINSIDE, NJ 07092- (908)301-2255

Place and time for appearance at 200 SHEFFIELD STREET, DIAMONDHEAD BUILDING, MOUNTAINSIDE, NJ 07092-



on the 9th day of September, 2013 at 03:00 o'clock P m.

Issued under authority of the Internal Revenue Code this 28th day of August, 2013

Department of the Treasury
Internal Revenue Service

www.irs.gov

MS. KIRSCHNER

Signature of Issuing Officer

REVENUE OFFICER

Title

Form 2039(Rev. 10-2010)
Catalog Number 21405J

Signature of Approving Officer (if applicable)

Title

EXHIBIT

Original -- to be kept by IRS



Service of Summons, Notice and Recordkeeper Certificates

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date

8/28/13

Time

3:45 pm

**How
Summons
Was
Served**

1. ☐ I certify that I handed a copy of the summons, which contained the attestation required by § 7603, to the person to whom it was directed.
2. ☒ I certify that I left a copy of the summons, which contained the attestation required by § 7603, at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any): _____
3. ☐ I certify that I sent a copy of the summons, which contained the attestation required by § 7603, by certified or registered mail to the last known address of the person to whom it was directed, that person being a third-party recordkeeper within the meaning of § 7603(b). I sent the summons to the following address: _____

Signature

[Handwritten Signature]

Title

R10

4. This certificate is made to show compliance with IRC Section 7609. This certificate does not apply to summonses served on any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to determine

whether or not records of the business transactions or affairs of an identified person have been made or kept.

I certify that, within 3 days of serving the summons, I gave notice (Part D of Form 2039) to the person named below on the date and in the manner indicated.

Date of giving Notice: _____

Time: _____

Name of Noticee: _____

Address of Noticee (if mailed): _____

**How
Notice
Was
Given**

- | | |
|---|--|
| <input type="checkbox"/> I gave notice by certified or registered mail to the last known address of the noticee. | <input type="checkbox"/> I gave notice by handing it to the noticee. |
| <input type="checkbox"/> I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any). | <input type="checkbox"/> In the absence of a last known address of the noticee, I left the notice with the person summonsed. |
| | <input checked="" type="checkbox"/> No notice is required. |

Signature

[Handwritten Signature]

Title

R10

I certify that the period prescribed for beginning a proceeding to quash this summons has expired and that no such proceeding was instituted or that the noticee consents to the examination.

Signature

[Handwritten Signature]

Title

R10

EXHIBIT

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

Petitioner

v.

ANGELO MALLOZZI,

Respondent.

Civil Action No.

DECLARATION

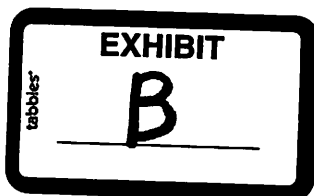
Marion Kirschner declares:

1. I am a duly commissioned revenue officer employed in the Small Business/Self-Employed Division Central Compliance Area of the Internal Revenue Service at 200 Sheffield Street, Diamondhead Building, Mountainside, N.J. 07092.

2. In my capacity as a revenue officer I am conducting an investigation into the tax liability of Angelo Mallozzi for the calendar years ending: December 31, 2009, December 31, 2010, December 31, 2011 and December 31, 2012.

3. In furtherance of the above investigation and in accordance with Section 7602 of Title 26, U.S.C., I issued on August 28, 2013 an administrative summons, Internal Revenue Service Form 2039, to Angelo Mallozzi, to produce for examination books, papers, records, or other data as described in said summons. The summons is attached to the petition as Exhibit A.

4. In accordance with Section 7603 of Title 26, U.S.C., on August 28, 2013, I served an attested copy of the Internal Revenue Service summons described in Paragraph (3) above on the respondent, Angelo Mallozzi, by leaving a copy at last and



usual place of abode, as evidenced in the certificate of service on the reverse side of the summons. A copy of the summons was also mailed to Angelo Mallozzi's post office box: PO Box 517, New Providence, NJ 07974. The certified return receipt was signed September 3, 2013 by Angelo Mallozzi.

5. On August 28, 2013, I served the notice required by Section 7609(a) of Title 26, U.S.C., on Angelo Mallozzi, by leaving a copy at last and usual place of abode, as evidenced in the certificate of service of notice on the reverse side of the summons.

6. On September 9, 2013, the respondent Angelo Mallozzi, did not appear in response to the summons. A last chance letter was sent to the respondent for a final appearance on October 23, 2013. On October 22, 2013, the respondent's first power of attorney, Martin Margolis, called requesting an extension for the last chance appointment because the returns were being prepared. It was agreed that the respondent, Angelo Mallozzi, would appear on November 8, 2013.

On November 6, 2013, Seth Dobbs, respondent's second power of attorney, called to extend the last chance appointment to November 25, 2013. Seth Dobbs was assigned to the case that day, November 6, 2013.

On November 25, 2013, Seth Dobbs, called to extend the last chance appointment because additional time was needed to complete the returns. Marion Kirschner, refused to extend the appointment and requested the respondent, Angelo Mallozzi, appear. Angelo Mallozzi and Seth Dobbs appeared on November 25, 2013, for the last chance appointment but did not have any of the tax returns as described in the said summons. The taxpayer was still gathering documents and it was agreed that the respondent and his power of attorney, Seth Dobbs, would contact Marion Kirschner

on December 3, 2013, with a filing date. To date, there has been no contact from the taxpayer or his power of attorney. The respondent's refusal to comply with the summons continues to the date of this declaration.

7. The books, papers, records, or other data sought by the summons are not already in the possession of the Internal Revenue Service.

8. All administrative steps required by the Internal Revenue Code for issuance of a summons have been taken.

9. It is necessary to examine the books, papers, records, or other data sought by the summons in order to properly investigate the federal tax liability of Angelo Mallozzi for the calendar years ending December 31, 2009, December 31, 2010, December 31, 2011 and December 31, 2012.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 28th day of July, 2014.


MARION KIRSCHNER
REVENUE OFFICER



OFFICE OF THE CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
OFFICE OF DIVISION COUNSEL
SMALL BUSINESS/SELF-EMPLOYED
ONE NEWARK CENTER, SUITE 1500
NEWARK, NEW JERSEY 07102-5224
(973) 645-6510
FAX: (973) 645-4759

CC:SB:1:NEW:1:GL-141021-13
SCDaSilva

Via Certified Mail

SEP 26 2013

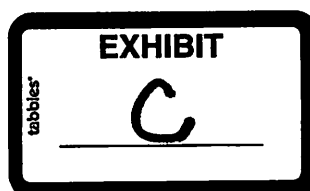
Angelo Mallozzi
70 B. Forest Dr.
Springfield, NJ 07081

Dear Mr. Mallozzi:

Small Business/Self-Employed North Atlantic Area Collection (Examination) of the Internal Revenue Service has notified our office that you did not comply with the provisions of the summons served on you on August 28, 2013. Under the terms of the summons, you were required to appear before Revenue Officer Marion Kirschner on September 9, 2013.

Legal proceedings may be brought against you in the United States District Court for not complying with this summons. To avoid such proceedings, you are to appear before Revenue Officer:

Name: Marion Kirschner
Date: October 23, 2013
Time: 3:00PM
Address: 200 Sheffield Street
Diamond Head Building
Mountainside, NJ 07092




GL-141021-13

2

Any books, records or other documents called for in the summons should be produced at that time. If you have any questions, please contact Revenue Officer Marion Kirschner at 908-301-2255.

Sincerely,

CARROLL D. LANSDELL
Associate Area Counsel
(Small Business/Self-Employed)

By: 
Sandra C. Da Silva
Paralegal Specialist
(Newark, Group 1)
(Small Business/Self-Employed)
IRS I.D. No. 6941383045

cc: Revenue Officer Marion Kirschner

Martin G. Margolis, Esq.
The Margolis Law Firm LLC.
Five Becker Farm Rd.
Roseland, NJ 07068